

REMARKS

I. Introduction

Claims **1-26** are currently pending in the present application. Claims **1, 5, and 24-26** are independent. All claims stand rejected. In particular:

(A) claims **1, 3-9, 11-13, and 21-22** stand rejected under 35 U.S.C. §112, first paragraph, for allegedly failing to comply with the written description requirement;

(B) claims **1 and 5** stand rejected under 35 U.S.C. §112, second paragraph, for allegedly being indefinite;

(C) claims **1 and 19** stand rejected under 35 U.S.C. §112, second paragraph, for allegedly failing to particularly point out and distinctly claim the subject matter which Applicants regard as the ‘invention’;

(D) claims **24-25** stand rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over U.S. Patent No. 6,720,990 (hereinafter “Walker”) in view of Regazzoni, “Scanning the Issue/Technology”, IEEE (2001), 0018-9219(01)08438-9, pages 1355-1367 (hereinafter “Regazzoni”); and

(E) claims **1-23 and 26** stand rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over Walker in view of Regazzoni, in further view of Sacchi and Regazzoni, “A Distributed Surveillance System for Detection of Abandoned Objects in Unmanned Railway Environments”, IEEE (2000), Vol. 49, No. 5, pages 2013-2026 (hereinafter “Sacchi”).

Upon entry of this amendment, which is respectfully requested, claims **2-4, 6, 8-9, 11, 13, 16, 19-20, 23, and 26** will be amended solely to correct informalities and/or typographical errors. No new matter is introduced by this amendment.

Applicants hereby respectfully request reexamination and reconsideration of the pending claims in light of the amendments and remarks provided herein and in accordance with 37 C.F.R. §1.112.

II. The Examiner's Rejections

A. 35 U.S.C. §112, first paragraph

Claims **1, 3-9, 11-13, and 21-22** stand rejected under 35 U.S.C. §112, first paragraph, for allegedly failing to comply with the written description requirement. Specifically, the Examiner states that because the term “first user” recited by claims **1, 3-9, 11-13, and 21-22** is not “defined within the specification”, the claims contain “subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.” Office Action, pg. 2, bullet 2. Applicants traverse this ground for rejection as follows.

Applicants respectfully note that, according to some embodiments, the terms “user”, “Guardian”, and “neuron” may generally be considered equivalent and/or similar. See, for example, Applicants’ specification at pg. 39, lines 14-23, where a “neuron” is described with respect to a “user device”; pg. 15, lines 13-15 and pg. 39, lines 19-22, where a “Guardian” is described as ‘using’ a “user device”, and *i.e.*, would be considered a “user”; and pg. 39, line 3, “Guardian or other user”.

Applicants further note that both “Guardians” and “neurons” are described throughout Applicants’ specification as filed as existing in pluralities or otherwise in multiples, which necessarily includes at least a “first” one of each such entities. See, for example, Applicants’ specification as filed, pgs. 5-6, where “first” and “second” layers of neurons are described, as well as a “plurality of neurons”; pg. 20, line 12 to pg. 21, line 17, where the terms “Guardians” (*i.e.*, in the plural), “a number of Guardians”, and “other Guardians” are used; pg. 23, line 28, “at least one Guardian”; and pg. 24, line 31-32, “another Guardian” (*i.e.*, a ‘second’ Guardian, which necessarily implies if not describes a ‘first’ Guardian).

At least because the above-cited sections of Applicants’ specification as filed are believed to more than reasonably convey that Applicants’ had possession of the claimed embodiments at the time the application was filed, and at least because the Examiner has failed to set forth any reasoning to the contrary (*i.e.*, no *prima facie* case for lack of written description has been established), Applicants respectfully request that this §112, first paragraph ground for rejection of claims **1, 3-9, 11-13, and 21-22** be withdrawn.

B. 35 U.S.C. §112, second paragraph – Claims 1 and 5

Claims 1 and 5 stand rejected under 35 U.S.C. §112, second paragraph, for allegedly being indefinite. Specifically, the Examiner states that the term “substantially”, recited by claims 1 and 5, is a relative term that renders claims 1 and 5 indefinite. Office Action, pg. 3, first paragraph. Applicants traverse this ground for rejection as follows.

Applicants respectfully note that “[t]he fact that claim language, including terms of degree, may not be precise, does not automatically render the claim indefinite under **35 U.S.C. 112**, second paragraph. *Seattle Box Co., v. Industrial Crating & Packing, Inc.*, 731 F.2d 818, 221 USPQ 568 (Fed. Cir. 1984).” MPEP §2173.05(b); emphasis in original. As long as one of ordinary skill in the art would be reasonably appraised of the scope of the claimed embodiment, the relative claim term does not render the claim indefinite. MPEP §2173.05(b), generally; and See, with specific reference to the use of the term “substantially”, MPEP §2173.05(b)(D).

In this case, Applicants believe that one of ordinary skill in the art would at least be reasonably appraised of the scope of the claimed embodiment based on (i) the usage of the relative term in the claimed embodiment (e.g., “an area in which human activity is desired to be **substantially** nonexistent”; emphasis added), (ii) the use of relative term in Applicants’ specification as filed, and (iii) “in view of the prior art and the status of the art” (MPEP §2173.05(b)).

At least for these reasons, and at least because the Examiner has otherwise generally failed to establish a *prima facie* case for indefiniteness, Applicants respectfully request that this §112, second paragraph ground for rejection of claims 1 and 5 be withdrawn.

C. 35 U.S.C. §112, second paragraph – Claims 1 and 19

Claims 1 and 19 stand rejected under 35 U.S.C. §112, second paragraph, for allegedly failing to particularly point out and distinctly claim the subject matter which Applicants regard as the ‘invention’ Specifically, the Examiner states that a definition of the term “entity”, recited by claims 1 and 19, is not provided, and that this term could refer to a person or a machine. Office Action, pg. 3, second paragraph.

Applicants respectfully note that there is no requirement under §112, second paragraph, that a claim must be “a self-contained explanation of every step. That is not the role of claims. The purpose of claims is not to explain the technology or how it works, but to state the legal boundaries of the patent grant.” S3 Inc. v. nVIDIA Corp., 259 F.3d 1364, 1369 (Fed. Cir. 2001) (dismissing the district court’s objection “that the claims are not self-contained in that they do not explain that ‘video display information is produced by the controller’”).

Applicants also respectfully note that the Examiner’s ability to articulate clearly what the Examiner believes the scope of the claimed term to be (*i.e.*, “‘entity’ could be a person or a machine”; Office Action, pg. 3, line 10), **is the epitome of definiteness**. That the Examiner might prefer a term that the Examiner deems more precise is not adequate grounds for rejection. See, MPEP §2173.02 (“Some latitude in the manner of expression and the aptness of terms should be permitted even though the claim language is not as precise as the examiner might desire.”).

At least for these reasons, Applicants respectfully request that this §112, second paragraph ground for rejection of claims **1** and **19** be withdrawn.

D. 35 U.S.C. §103(a) - Walker, Regazzoni

Claims **24-25** stand rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over Walker in view of Regazzoni. Applicants respectfully traverse this ground for rejection as follows.

Applicants respectfully note that the Walker reference is subject matter developed “by another person” that generally may qualify as prior art only under 35 U.S.C. §102(e), and, at the time the present Application was filed, both Walker and the present Application were “owned by the same person or subject to an obligation of assignment to the same person.” Thus, pursuant to the provisions of 35 U.S.C. §103(c)(1), the Walker reference may not be used to sustain a §103(a) rejection of the pending claims.

Accordingly, this §103(a) ground for rejection of claims **24-25** is moot, and Applicants therefore respectfully request that this §103(a) ground for rejection of claims **24-25** be withdrawn.

E. 35 U.S.C. §103(a) - Walker, Regazzoni, Sacchi

Claims **1-23** and **26** stand rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over Walker in view of Regazzoni, in further view of Sacchi. Applicants respectfully traverse this ground for rejection as follows.

Applicants respectfully note that the Walker reference is subject matter developed “by another person” that generally may qualify as prior art only under 35 U.S.C. §102(e), and, at the time the present Application was filed, both Walker and the present Application were “owned by the same person or subject to an obligation of assignment to the same person.” Thus, pursuant to the provisions of 35 U.S.C. §103(c)(1), the Walker reference may not be used to sustain a §103(a) rejection of the pending claims.

Accordingly, this §103(a) ground for rejection of claims **1-23** and **26** is moot, and Applicants therefore respectfully request that this §103(a) ground for rejection of claims **1-23** and **26** be withdrawn.

III. Conclusion

At least for the foregoing reasons, it is submitted that all pending claims are now in condition for allowance, and the Examiner's early re-examination and reconsideration are respectfully requested.

Alternatively, if there remain any questions regarding the present application, the Examiner is cordially requested to contact Carson C.K. Fincham at telephone number (203) 461-7017 or via e-mail at cfincham@walkerdigital.com, upon the Examiner's convenience.

IV. Petition for Extension of Time to Respond

While no fees are believed to be due at this time, please charge any fees that may be required for this Amendment to Deposit Account No. 50-0271. Furthermore, should an extension of time be required, please grant any extension of time which may be required to make this Amendment timely, and please charge any fee for such an extension to Deposit Account No. 50-0271.

Respectfully submitted,

March 14, 2007
Date

/Carson C.K. Fincham, Reg.#54096/
Carson C.K. Fincham
Attorney for Applicants
Registration No. 54,096
cfincham@walkerdigital.com
203-461-7017 /voice
203-461-7300 /fax